IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9416 of 2005

Between:

Ajay Agarwal S/o B.N. Agarwal,
R/o Anantapur District

..... PETITIONER

AND

1 The Chairman Railway Board, Railway Bhawan, New Delhi
2 The Chief Commercial manager, Rail Nilayam Building, Secunderabad
3 The Sr. Divisional Commercial manager, south Central Railway, Guntakal, A.P.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order or orders or writ particularly one in the nature of writ of Mandamus declaring that the letter of 1st respondent granting the extension for running of STD Booth only to the physically handicapped persons is illegal, arbitrary and violative of petitioner's rights guaranteed under Article 14 and 19(1)(g) of the Constitution of India and consequently set a side the same and pass such other order or orders as this Hon'ble Court may deem fit and proper.

Counsel for the Petitioner : MR. CHALLA.GUNARANJAN

Counsel for the Respondents : MR. G.S.SANGHI

The Court at the admission stage made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.9416 OF 2005

ORDER :

The writ petitioner was allotted space at Guntakal Railway Station to install a STD/PCO Telephone Booth by proceedings of the South Central Railway, dated 1-3-1996, under the category of Educated Unemployed Youth. It is not in dispute that the licence in favour of the petitioner is valid upto 27-4-2005. As a matter of fact, the third respondent has already issued a tender notice dated 16-3-2005 inviting sealed tenders / applications from educated unemployed youth, women and physically handicapped for installing and operating the STD Booths at the Railway Stations specified thereunder including Guntakal Railway Station. The petitioner made an application dated 29-03-2005 for renewal of the STD booth, in response to which the 2nd respondent by letter dated 12-4-2005 informed the petitioner that as per the policy the existing licensees under the categories other than the physically handicapped persons are allowed to operate the booths upto 27-4-2005 only and therefore the request of the petitioner for extension cannot be considered. It appears that the respondents 2 and 3 have taken the decision to allow the existing physically

handicapped licensees as per the directions of the 1st respondent vide letter dated 11-03-2005 to allow the physically handicapped persons who are presently running the STD / ISD / PCO Booths at Railway Stations to continue and their contract can be extended upto 27-4-2007 provided their work is satisfactory. The contention of the petitioner is that the said action of the respondents in not granting extension to the petitioner on par with the existing physically handicapped licensees is arbitrary, illegal and discriminatory. Hence, this writ petition seeking a declaration that the action of the respondents in granting extension to the physically handicapped persons alone and not extending the said benefit to the petitioners is arbitrary, illegal and violative of the rights guaranteed under Articles 14 and 19(1)(g) of the Constitution of India.

I have heard the learned Counsel for the petitioner as well as the learned Standing Counsel appearing for the respondents.

The learned Standing Counsel submits that the respondent Railways are taken a policy decision not to grant extension to the existing licensees except for the category of physically handicapped.

It is apparent that the petitioner who was allotted space in the railway station under the category of Educated Unemployed Youth and other persons who were allotted under the category of Physically Handicapped Persons form two separate classes. The concession granted to the physically handicapped persons to extend the permission upto 27-4-2007 treating them as a separate class on reasonable and rational basis cannot be said to be either arbitrary or discriminatory. The petitioner cannot claim any relief on par with physically handicapped persons. I do not see any justifiable reason to hold that the classification sought to be drawn by the respondents is not justified. Neither the same can be held to be palpably arbitrary so as to declare the same as violative of Article 14 of the Constitution of India. Hence, the relief as prayed for cannot be granted.

However, the petitioner states that the tender process under the tender notice

dated 16-3-2005 was cancelled and as of today no arrangements are made for running the STD booths beyond 27-4-2005. If that be so, it is always open to the petitioner to participate as and when a fresh tender notice is issued.

It is also open to the petitioner to make a request to allow him to continue the existing STD Booth till the finalisation of the fresh tenders and till fresh licences are issued. If any such request is made, the respondents 2 and 3 shall consider the same in accordance with law .

The Writ Petition is accordingly disposed of. No costs.

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26th April, 2005.

Note:- Issue operative portion

By wire at party's cost.

(B/O)

gbs

To

1 The Chairman Railway Board, Railway Bhawan, New Delhi
2 The Chief Commercial manager, Rail Nilayam Building, Secunderabad
3 The Sr. Divisional Commercial manager, south Central Railway, Guntakal, A.P.

4. Two CD copies.